

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SALVATORE J. SOWELL,

Plaintiff,

v.

STATE OF OHIO, *et al.*,

Defendants.

Case No. 2:24-cv-4153

Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

ORDER

This matter is before the Court on the November 18, 2024, Report and Recommendation issued by the Magistrate Judge. (R&R, ECF No. 4.) Plaintiff Salvatore J. Sowell brings this prisoner civil rights action under 42 U.S.C. § 1983. (ECF No. 1, PageID 8.) He filed a Motion to Proceed *in forma pauperis*. (ECF No. 1.) The Magistrate Judge recommended that the Court deny the Motion. (R&R, PageID 27.)

The Magistrate Judge concluded that Plaintiff is prohibited from proceeding *in forma pauperis* in this case under 28 U.S.C. § 1915(g) “because at least three complaints previously filed by [Plaintiff] while he has been a prisoner were dismissed as frivolous or for failure to state a claim upon which relief may be granted.” (*Id.*, PageID 24–25) (citing *Sowell v. United States*, No. 2:23-cv-1683 (S.D. Ohio Jan. 8, 2024) (Sargus, J.; Litkovitz, M.J.) (ECF Nos. 25, 27, 28); *Sowell v. Huntington Bank*, No. 2:23-cv-4250 (S.D. Ohio Feb. 16, 2024) (Graham, J.; Vascura, M.J.) (ECF Nos. 6, 10, 11); *Sowell v. Ohio State Univ.*, No. 2:24-cv-873 (S.D. Ohio June 6, 2024) (Morrison, J.; Deavers, M.J.) (ECF Nos. 6, 10, 11); *see also Sowell v. Comm’r of Soc. Sec.*, No. 2:24-cv-3086 (S.D. Ohio Sept. 4, 2024) (Marbley, J.; Litkovitz, M.J.) (ECF Nos. 6, 11) (denying Plaintiff’s motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(g)); *Sowell v. U.S.*

Dist. Ct., No. 2:24-cv-3916 (S.D. Ohio Nov. 6, 2024) (Marbley, J.; Vascura, M.J.) (ECF No. 5) (report and recommendation pending to deny Plaintiff's motion for leave to proceed *in forma pauperis* based on his accumulating three strikes). The Magistrate Judge concluded that none of the statutory exceptions under § 1915(g) applied to Plaintiff. (R&R, PageID 26.) The Magistrate Judge further recommended that the Court certify under 28 U.S.C. § 1915(a)(3) that any appeal of an Order adopting the Report and Recommendation would not be taken in good faith. (*Id.*, PageID 27.)

Once a magistrate judge issues a report and recommendation, the relevant statute provides:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1). The failure to file written objections to a magistrate judge's report and recommendation waives a de novo determination by the district court of any issues addressed in the report and recommendation. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).

Plaintiff was advised of his right to object to the Report and Recommendation and of the consequences of failing to do so. (R&R, PageID 27.) Plaintiff did not timely object to the Report and Recommendation. Plaintiff filed a Complaint (ECF No. 5) after the Report and Recommendation was issued, but Plaintiff did not object to the Report and Recommendation in the Complaint.

The Court **ADOPTS** and **AFFIRMS** the Report and Recommendation. (ECF No. 4.) The Court **DENIES** Plaintiff's Motion to Proceed *in forma pauperis*. (ECF No. 1.) The Court **ORDERS** Plaintiff to pay the full \$405 filing fee required to commence this action **within thirty**

(30) days of this Order and **NOTIFIES** Plaintiff that his failure to timely pay the full \$405 fee will result in the dismissal of his action. *See In re Alea*, 286 F.3d 378, 382 (6th Cir. 2002). Pursuant to 28 U.S.C. § 1915(a)(3), the Court **CERTIFIES** that any appeal of this Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610–11 (6th Cir. 1997).

This case remains open.

IT IS SO ORDERED.

1/7/2025
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE